

Message Text

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SUBJ: FOREIGN INVESTMENT AND NEW GREEK CONSTITUTION

REF A. ATHENS 772 B. ATHENS 387 C. ATHENS 662 D. ATHENS 3833

1. IN COURSE OF PROLONGED DEBATE ON NEW DRAFT CONSTITUTION, GREEK PARLIAMENT APPROVED MAY 16 ARTICLE 108 EXTENDING CONSTITUTIONAL PROTECTION TO THE EXISTING FOREIGN INVESTMENT INCENTIVE LAW 2687 OF 1953 AND TO THE RECENTLY ENACTED LAW 27/75 (WHICH PROMULGATED GREEK SHIPPING TAX CODE AND LIMITED CERTAIN TAX EXEMPTIONS PREVIOUSLY OFFERED TO FOREIGN PERSONNEL OF LAW 89 FIRMS (SEE REF D). LAW 2687 STATES THAT A FOREIGN COMPANY'S INVESTMENT AGREEMENT WITH GOG CAN BE CHANGED ONLY WITH THE CONSENT OF THE FOREIGN INVESTOR. BY BEING CONSTITUTIONALLY GUARANTEED, A FOREIGN INVESTOR'S AGREEMENT WITH GOG IS PROTECTED FROM FUTURE UNILATERAL LEGISLATIVE CHANGE, AS UNILATERAL CHANGE WOULD REQUIRE CONSTITUTIONAL AMENDMENT. IN FACT, THIS IS SAME PROVISION WHICH OBTAINED PREVIOUSLY, AND IS CLEARLY AN ATTEMPT BY GOG TO IMPRESS POTENTIAL FOREIGN INVESTORS WITH CONTINUITY OF PROTECTION AFFORDED THEIR INVESTMENT AND TO REESTABLISH FAVORABLE FOREIGN INVESTMENT CLIMATE IN GREECE.

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2. HOWEVER, ARTICLE 108 ALSO PROVIDES FOR PASSAGE, WITHIN

THREE MONTHS FROM THE EFFECTIVE DATE OF THE NEW CONSTITUTION, OF A NEW LAW WHICH WILL ESTABLISH PROCEDURES GOVERNING REVISION OR CANCELLATION OF CERTAIN FOREIGN INVESTMENT CONTRACTS CONCLUDED UNDER LAW 2687 DURING THE JUNTA PERIOD, FROM APRIL 21, 1967 THROUGH JULY 23, 1974 (REF A). (EXCLUDED FROM THIS REVIEW ARE LAW 2687 INSTRUMENTS OF APPROVAL GOVERNING REGISTRATION OF SHIPS UNDER THE GREEK FLAG). COORDINATION MINISTER PAPALIGOURAS HAS STATED THAT THE NEW LAW WILL SPECIFY THOSE LAW 2687 INVESTMENT APPROVALS AND CONTRACTS WHICH WILL BE REVISED OR CANCELLED AND WILL ALSO SET THE TIME-FRAME WITHIN WHICH GOG WILL BE OBLIGATED TO INITIATE ACTION ON SUCH REVISION OR CANCELLATION.

3. COMMENT. INVESTIGATION AND REVISION OF SEVERAL JUNTA PERIOD INVESTMENTS IS ALREADY ONGOING OR PLANNED - E.G. OCEANIC EXPLORATION COMPANY, STEYR TRUCK PLANT, RENAULT-PEUGEOT ASSEMBLY PLANT, NESTLE DAIRY PLANT, ATHENS PAPER MILL, ET AL. THE NEW CONSTITUTIONAL ARTICLE AND THE FORTHCOMING NEW LAW WILL PROVIDE THE LEGAL BASIS FOR THESE REVISIONS. VARIOUS INTERESTS, BOTH LOCAL AND FOREIGN (INCLUDING THIS EMBASSY) HAVE POINTED OUT TO GOG DECISIONMAKERS THE DANGERS INHERENT IN CALLING INTO QUESTION THE SANCTITY OF LAW 2687'S CONSTITUTIONAL GUARANTEES FOR INVESTMENTS MADE DURING A PARTICULAR PERIOD. GOG OFFICIALS, INCLUDING PAPALIGOURAS, SEEM CONVINCED, HOWEVER, THAT INVESTIGATION OF AT LEAST CERTAIN MAJOR CONTRACTS IS NECESSARY TO BRING THEM INTO LINE WITH INTERNATIONAL STANDARDS. THEY ASSERT THAT GOG HAS NO INTENTION OF REVISING GREAT MAJORITY OF JUNTA AGREEMENTS. THE EFFECT OF THE CURRENT RUN OF CONTRACT REVISIONS ON THE GOG'S ATTEMPT TO REINVIGORATE THE FOREIGN INVESTMENT CLIMATE REMAINS TO BE SEEN. KUBISCH

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